THE MYSORE AGRICULTURISTS' RELIEF ACT, 1928.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

Sections.

1. Short title, commencement. Extent.
2. Construction.

CHAPTER II.

SCOPE OF THE ACT AND JURISDICTION OF COURTS.

3. Application of this Act.
4. No appeal from finding on the issue of status.
5. Power of Court to determine nature of transactions and to admit evidence of an oral agreement or statement.
6. Agriculturists to be sued where they reside.
7. Examination of plaintiff and defendant.
8. Power of Court to enquire into history of transactions.
9. In certain cases rent may be charged in lieu of profits.
10. Mortgagor entitled to redemption decree though time fixed by mortgage has not arrived or debt has not been discharged.
11. (1) Power to order payment by instalments in case of decree for redemption, foreclosure or sale.
    (2) Power to continue the mortgagee in possession.
12. Power to fix instalments in execution.
12-A. Instalments to be annual.
12-B. Payment of whole amount when instalments are in arrears.
13. Agriculturists exempted from arrest and imprisonment in execution of decree for money.
14. Immovable property exempted from attachment and sale unless specifically mortgaged.
15. Setting aside of sale by Deputy Commissioner.

Sections.

CHAPTER III.

OF RECEIPTS AND STATEMENTS OF ACCOUNTS.

16. Agriculturists entitled to written receipts.

17. To annual statement of accounts.

18. To have account made up from time to time in a pass book.

19. Accounts to be produced with plaint.

CHAPTER IV.

MISCELLANEOUS.

20. Mortgages, etc., to be valid only when written.

21. Recognition of payments not certified or recorded.

22. Rate of interest allowable on taking an account.

23. Suits to be tried as original suits.

24. Limitation.

25. Code of Civil Procedure, 1908 to apply.

25-A. Exemption in respect of certain Co-operative Societies.

26. Act to apply to pending suits.

(Chapter I—Preliminary)

MYSORE ACT No. XVIII OF 1928.

THE MYSORE AGRICULTURISTS' RELIEF ACT, 1928.

(As amended by Acts VII *of* 1935, II *of* 1937 *and* 13 *of* 1953.)

(Received the assent of His Highness the Maharaja on the 14th day of July 1928.)

Preamble.

WHEREAS it is expedient to relieve the agricultural classes in [1][State of Mysore except Bellary District] from indebtedness; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, commencement.

1. This Act may be called the Mysore Agriculturists' Relief Act, 1928; and it shall come into force on the first day of January 1929.

Extent.

It extends only to such districts or parts of districts as may be notified by Government from time to time in the Official Gazette and Government may, by a like notification, exclude from its operation any area to which it had been extended.

Construction.

2. In construing this Act, unless there is something repugnant in the subject or context:—

First.—" Agriculturist " shall be taken to mean a person who ordinarily engages in agriculture in the area to which this Act applies for the time being, provided that his yearly income from sources other than agriculture does not exceed [2][Rs. 1,000], and that his aggregate income from all sources does not exceed [2][Rs. 2,000].

Explanations.

(*a*) A person who is a female or minor member of the family of an agriculturist as above defined and who has, as such, a right either to be maintained by him or to participate in the family agricultural income shall be deemed to be an agriculturist for the purposes of this Act.

---

1. See the Mysore Adaptation of Laws Order, 1953.
2. Substituted by Act 13 of 1953.

(*b*) A person otherwise coming within the definition shall not be considered to be an agriculturist in reference to a certain transaction unless he or the person through whom he claims was also an agriculturist, as hereby defined, at the time when the transaction took place.

(*c*) A question of status raised and decided or withdrawn at any stage of the suit, or not raised at all though it could have been raised cannot be re-opened or raised after the final decree in the suit, in proceedings connected with the execution of that decree.

(*d*) An assignee of Government revenue or a mortgagee as such is not an agriculturist within this definition.

Second.—"Money" shall be deemed to include agricultural produce, implements and stock.

Third.—"Standing crops" shall include crops of all sorts attached to the soil, and leaves, flowers and fruits upon, and juice in, trees and shrubs.

CHAPTER II.

Scope of the Act and Jurisdiction of Courts.

Application of this Act.

3. The provisions of this Act shall apply to—

(i) suits in which the defendant or any one of the defendants is an agriculturist for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to or paid for, the defendant, or

as the price of goods sold, or

on an account stated between the plaintiff and the defendant, or

on a written or unwritten engagement for the payment of money not hereinbefore provided for;

(ii) suits in which the defendant or any one of the defendants is an agriculturist for the recovery of money due on contracts other than the above and suits for rent in cases where the defendant, having sold or mortgaged a land, has taken it on lease from the vendee or the mortgagee;

(iii) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or for foreclosure and sale, when the defendant, or any one of the defendants, is an agriculturist; and

(iv) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs any one of the plaintiffs, is an agriculturist.

No appeal from finding on the issue of status.

4. (1) When in any suit under section 3 a question is raised as to the status of a party as an agriculturist, the Court shall try that question as a preliminary issue and record its finding thereon.

[1][(1-A) Notwithstanding anything to the contrary contained in this Act, the question as to the status of a party as an agriculturist shall be raised at the earliest possible opportunity in suits filed after 30th April 1937.]

(2) Notwithstanding anything to the contrary contained in this Act or in the [2][Code of Civil Procedure, 1908], the finding of the Court of first instance on the issue of status shall be final and its correctness shall not be called in question in any appeal from the decree in the suit: Provided that the High Court may, for the purpose of satisfying itself as to the legality or propriety of the said finding or the regularity of the proceedings, call for the records and pass such order with respect thereto as it thinks fit.

Power of Court to determine nature of transactions and to admit evidence of an oral agreement or statement.

5. Whenever it is alleged at any stage of any suit or proceeding to which an agriculturist is a party that any transaction in issue entered into, at any time within a period of six years before this Act is extended to the local area concerned, by such agriculturist or the person, if any, through whom he claims was a transaction of such a nature that the rights and liabilities of the parties thereunder are triable wholly or in part under this Chapter, the Court shall, notwithstanding anything contained in section 92 of the Indian Evidence Act, 1872, or in any other law for the time being in force, have power to enquire into and determine the real nature of such transaction and decide such suit or proceeding in accordance with such determination and shall be at liberty, notwithstanding anything contained in any law as aforesaid, to admit evidence of any oral agreement or statement with a view to such determination and decision:

---

1. Inserted by Act II of 1937.
2. Substituted by Act 13 of 1953.

Provided that such agriculturist or the person, if any, through whom he claims was an agriculturist at the time of such transaction :

Provided also that, notwithstanding anything contained in the [1][Code of Civil Procedure, 1908,] or any other law for the time being in force, a suit for a mere declaration only of the real nature of the transaction shall lie, and that such declaration shall not affect the right to bring a subsequent suit for consequential relief in reference to such transaction.

Illustrations.

(*a*) A landlord sues for possession of land leased by him to an agriculturist. The defendant alleges that he mortgaged the land with possession to the lessor, who is entitled to its possession only as such mortgagee and not as owner, and asks that he may be allowed to redeem the mortgage without being ejected. The Court may admit evidence on this allegation, and, if satisfied that it is correct, may decline to eject the defendant as tenant, and allow the suit to be converted into one for redemption of the mortgaged property.

(*b*) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a lease. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a lease, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.

(*c*) A money-lender sues to enforce a sale deed entered into by an agriculturist. It is alleged that there was a contemporaneous oral agreement that the transaction should be deemed to be a mortgage. The Court may admit evidence of such oral agreement, and if satisfied of the existence of the agreement may decline to enforce the deed as a sale deed.

(*d*) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a lease. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a sale, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.

Agriculturists to be sued where they reside.

6. Every suit of the description mentioned in section 3 shall, if the defendant, or, where there are several defendants, any one of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides :

Provided that nothing herein contained shall affect the provisions of sections 22 to 24 of the [1][Code of Civil Procedure, 1908.]

1. Substituted by Act 18 of 1953.

Explanation.—An agriculturist shall be deemed to reside in the place where he ordinarily engages in agriculture.

Examination of plaintiff and defendant.

7. In any suit of the description mentioned in section 3 the Court shall examine both the plaintiff and the defendant unless, for reasons to be recorded by it in writing, it deems it unnecessary or impossible to do so.

Power of Court to enquire into history of transactions.

8. (1) If the amount of the creditor's claim is disputed, it shall inquire as far as possible into the history and merits of the case out of which the suit has arisen from the commencement of the transactions between the parties or the persons, if any, through whom they claim.

(2) When the Court inquires into the history and merits of a case under sub-section (1) it shall,—

notwithstanding any agreement between the parties or the persons, (if any) through whom they claim, as to allowing compound interest or setting off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties from the commencement of the transactions and take that account according to the following rules (that is to say):—

(a) separate accounts of principal and interest shall be taken;

(*b*) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor and the price of goods, if any, sold to him by the creditor as part of the transactions;

(*c*) in the account of principal there shall not be debited to the debtor, any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deems such debit to be reasonable;

(d) in the account of interest there shall be debited to the debtor monthly, simple interest on the balance of principal for the time being outstanding, at the rate allowed by the Court as hereinafter provided;

(*e*) all money paid by or on account of the debtor to the creditor or on his account and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money value as the Court in its discretion may determine) shall be credited first in the account of interest, and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payments shall be credited to the debtor in the account of principal;

(*f*) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances, (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest account exceeds that appearing due on the principal account, in which case double the latter balance shall be deemed to be the amount then due.

To enable the Court to make this inquiry the creditor shall produce accounts, kept in the manner hereinafter prescribed, which shall record all transactions between himself and the debtor that shall have taken place subsequent to the extension of this Act. With reference to transactions, if any, which took place prior to the extension of this Act, he shall submit with the plaint a statement of account between himself and the debtor showing, to the best of his knowledge and belief, the advances made, the repayments admitted and how the sum claimed is arrived at.

(3) Nothing contained in this section shall be deemed to empower the Court as the result of an investigation hereunder to grant relief by way of refund to an agriculturist, whether as plaintiff or as defendant, of any amount to which he is not otherwise entitled under any law for the time being in force.

In certain cases rent may be charged in lieu of profits.

9. Where the mortgaged property is in the possession of the mortgagee or his tenants other than the mortgagor, and the Court is unable to determine what profits have been actually received, it may fix a fair rent for such property and charge to the mortgagee such rent as profits for the purpose of section 8:

Provided that, if it be proved that in any year there was an entire or serious failure of the crops, an abatement of the whole or part of such rent may be allowed for the year.

Mortgagor entitled to redemption decree though time fixed by mortgage has not arrived or debt has not been discharged.

10. In a suit of the description mentioned in section 3, clause (iv) the Court may, in its discretion, pass a decree for redemption though the time fixed for the payment of the principal of the mortgage money has not arrived, or though the mortgage debt has not been completely discharged.

Power to order payment by instalments in case of decree for redemption, foreclosure or sale.

11. (1) The Court may, in its discretion, in passing a decree for redemption, foreclosure or sale in any suit under this Act or in the course of any proceedings under a decree for redemption, foreclosure or sale passed in any such suit, whether before or after this Act comes into force, direct that any amount payable by the mortgagor under that decree shall be payable in such instalments, on such dates and on such terms as to the payment of interest, and where the mortgagee is in possession as to the appropriation of the profits and accounting therefor, as it thinks fit.

Where the Court decides that an amount due by a mortgagor should be paid in instalments, it shall fix such instalments as may seem equitable. It shall further allow future interest at a moderate rate unless, for reasons to be recorded in writing, it deems it unnecessary to do so. Instalments shall not extend over a period exceeding eight years unless the Court thinks necessary for reasons to be stated in writing.

Power to continue the mortgagee in possession.

(2) In passing a decree for redemption or foreclosure in any such suit as aforesaid, the Court may direct that the amount payable by the mortgagor shall be discharged by continuing the mortgagee in possession for such further period as will enable him to recover his principal with reasonable interest, and that on the expiry of such period the property mortgaged shall be restored to the mortgagor.

(3) When the amount payable to a mortgagee in possession has been determined in any such suit as aforesaid, the Court may, in its discretion, instead of making an order for payment thereof, direct that the mortgagee be continued in possession for such period (to be specified by the Court) as will in the opinion of the Court be

sufficient to enable him to recover from the profit the amount payable by the mortgagor together with reasonable interest, and that on the expiry of such period the property mortgaged shall be restored to the mortgagor.

Power to fix instalments in execution.

[1][**12**. In passing a decree for money in any suit under this Act or in the course of any proceedings under a decree passed, whether before or after this Act comes into force, against an agriculturist, the Court may, on the application of either party, direct that any amount payable under that decree shall be paid by instalments.]

Where such an order is passed, the Court shall fix such instalments as it may consider equitable, and shall allow future interest at a moderate rate, unless for reasons to be recorded in writing it deems it unnecessary to do so. Instalments shall not extend over a period exceeding eight years unless the Court thinks necessary for reasons to be recorded in writing.

[2][**12-A**. The instalments to be allowed under sections 11 and 12 shall be annual, and in fixing the number of such instalments, the Court shall take into consideration among other matters, the period during which the loan was outstanding and the repaying capacity of the judgment-debtor.

12-B. Whenever the Court orders payment by instalments, it may direct that when two or more instalments are in arrears, the decree-holder may immediately enforce payment of the whole amount then remaining due under the decree.]

Agriculturist exempted from arrest and imprisonment in execution of decree for money.

13. No agriculturist shall be arrested or imprisoned in execution of a decree for money, passed whether before or after this Act comes into force.

Immovable property exempted from attachment and sale unless specifically mortgaged.

14. [3](1) [1][Except as otherwise provided in sub-sections (2), (3) and (4) no agricultural land] belonging to an agriculturist shall be attached or sold in execution of any decree or order passed after this Act comes into force, unless it has been specifically mortgaged for the payment

1. Substituted by Act VII of 1935.
2. Added by Act VII of 1935.
3. Renumbered as sub-section (1) by Act VII of 1935.

of the debt to which such decree or order relates, and the security still subsists. For the purposes of any such attachment or sale as aforesaid, standing crops shall be deemed to be movable property.

[2][(2) The Court may at the time of passing a decree for money directing payment by instalments or at any time during the course of execution of such decree, direct the judgment-debtor for sufficient cause to furnish security for the amount of the decree and if he fails to furnish the security required, order the attachment of any agricultural land belonging to the judgment-debtor.

(3) The procedure in respect of attachments ordered under sub-section (2) shall be, as far as may be, in accordance with the procedure relating to attachment before judgment under Order XXXVIII of the [2][Code of Civil Procedure, 1908.]

(4) No agricultural land ordered to be attached under sub-section (2) shall be sold in pursuance of such attachment unless the judgment-debtor is in arrears in respect of two or more instalments under the decree.]

Setting aside of sale by Deputy Commissioner.

15. (1) When any immovable property belonging to an agriculturist has been sold by public auction, under the provisions of the Third Schedule of the [2][Code of Civil Procedure, 1908,] the sale may, on the application of the decree-holder or the judgment-debtor or any other person whose interests are affected by the sale, accompanied by a deposit of a sum equal to five per centum of the purchase money, within thirty days from the date of the auction, be set aside by the Deputy Commissioner, if he considers the price bid by the purchaser to be inadequate.

(2) When the sale is so set aside, the purchaser shall be entitled to receive back his purchase money together with the deposit made under sub-section (1) and the Deputy Commissioner may re-sell the property by public auction or private contract, as he thinks fit. Every such re-sale shall be deemed to be a sale under provisions of the Third Schedule of the [2][Code of Civil Procedure, 1908.]

---

1. Added by Act VII of 1935.
2. Substituted by Act 13 of 1953.

(Chapter III—Of Receipts and Statements of Accounts)

CHAPTER III.

Of Receipts and Statements of Accounts.

Agriculturists entitled to written receipts.

16. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall at the time of such payment, tender to such agriculturist, whether he demands the same or not, written receipt for the amount of such payment.

To annual statement of accounts.

17. Any agriculturist by whom any amount is due under any instrument shall, on such date in each year as the Government, having regard to local custom, may from time to time, by notification in the Official Gazette, fix, be entitled to receive on demand, from the person claiming under such instrument, a statement, up to that date of his account under such instrument.

To have account made up from time to time in a pass book.

18. Any agriculturist in whose name an account is kept by any trader or money-lender, shall be entitled to receive from such trader or money-lender, on demand, a pass book and to require from time to time, that his account up-to-date be written therein and authenticated by the signature or mark of the said trader or money-lender.

An entry so made in any such pass book for any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section 16 to the grant of a receipt for the amount so entered.

No person whose account has been written in a pass book as required by this section shall be entitled also to demand an account under section 17.

Accounts to be produced with plaint.

19. (1) Every money-lender having dealings with an agriculturist shall keep an account of all transactions taking place between himself and such agriculturist.

(2) Subject to the provisions of the [1][Code of Civil Procedure, 1908,] no suit under this Act against an agriculturist shall be proceeded with unless the account kept under sub-section (1) together with an extract of the entries therein on which the plaintiff relies and, in respect of transactions, if any, prior to the date on which this Act is extended to the local area concerned, a duly verified statement of account relating to such transactions are produced when the Court so directs: Provided that the Court may for adequate reasons to be recorded in writing dispense with the production of such documents with the plaint.

---

1. Substituted by Act 13 of 1953.

CHAPTER IV.

MISCELLANEOUS.

Mortgages, etc., to be valid only when written.

20. No mortgage, lien or charge of or upon any immovable property belonging to an agriculturist shall be valid unless it is created by an instrument in writing under the hand of the person creating such mortgage, lien or charge.

Nothing in this section shall apply to any mortgage, lien or charge, created by mere operation of law, or in favour of the Government or of any officer of the Government in his official capacity.

Recognition of payments not certified or recorded.

21. Payments or adjustments in whole or in part made out of Court in satisfaction of any decree passed under this Act shall be recognised by the Court executing the decree, though not certified to or recorded by the said Court in accordance with the provisions of the [1][Code of Civil Procedure, 1908.]

Rate of interest allowable on taking an account.

22. In taking an account under section 8 or in any suit under this Act where interest is chargeable, such interest shall be awarded at the following rates :—

(*a*) the rate, if any, agreed upon between the parties, or the persons, (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable ; or

(*b*) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or when any agreement between the parties or the person, (if any) through whom they claim, to set off profits against interest and assessment and similar charges without an account has been set aside by the Court, such rate as the Court may deem equitable, taking into consideration the nature of the security, if any, and the normal rate of interest prevailing in the locality.

Suits to be tried as original suits.

23. Every suit under this Act shall be tried as an original suit.

Limitation.

24. In any suit of the description mentioned in section 3, clause (i), for the recovery of money from a person who at the time when the transaction took place was an agriculturist, in any of the areas notified under the second paragraph of section 1, the following periods of limitation [1][shall be deemed to be substituted for those

1. Substituted by Act 18 of 1953.

prescribed in the second column of the First Schedule to the Indian Limitation Act, 1908,] that is to say :—

(*a*) when such suit is founded on a written instrument registered under any law in force at the date of execution of such instrument,— twelve years,

(*b*) in any other case,—six years ;

Provided that nothing in this section shall—

(i) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal was not at the time when the transaction took place an agriculturist in any of the areas aforesaid, or

(ii) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.

Code of Civil Procedure 1908, to apply.

25. Except in so far as it is inconsistent with this Act, the [1][Code of Civil Procedure, 1908,] shall apply in all suits and proceedings under this Act.

Exemption in respect of certain Co-operative Societies.

[2][**25-A.** The Government may, by notification in the Official Gazette, from time to time, direct that the provisions of this Act, except sections 2 and 13, shall not apply to any matter to or in which any society or class of societies registered under the Mysore Co-operative Societies Act, 1918,[3] is a party, and may by a similar notification withdraw the exemption in respect of any such society or class of societies.]

Act to apply to pending suits.

26. The provisions of this Act shall apply to all suits mentioned in section 3 instituted on or after the 1st day of January 1926 and pending in any Court of first instance on the date on which this Act is extended to the local area concerned :

Provided that if the Court in which such suits are pending is not competent under this Act to try them, they shall be transferred to and tried by the Court competent to try them under this Act.

---

1. Substituted by Act 13 of 1953.
2. Added by Act VII of 1935.
3. Repealed and re-enacted as Act LII of 1948.